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of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: Aviation Safety Action Program
(ASAP)

Date: DRAFT

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Change:

- 1 **PURPOSE.** This advisory circular (AC) provides guidance for establishing an air transportation Aviation Safety Action Program (ASAP). The objective of an ASAP is to encourage employees of certificate holders or other operators to voluntarily report safety information that may be critical to identifying potential precursors to accidents. The Federal Aviation Administration (FAA) has determined that identifying these precursors is essential to further reducing the already low accident rate. Under an ASAP, safety issues are resolved through corrective action rather than through punishment or discipline. The ASAP provides for the collection, analysis, and retention of the safety data that is obtained through the reporting process. ASAP participants use ASAP safety data, much of which would otherwise be unobtainable, to develop corrective actions for identified safety concerns, and to educate the appropriate parties to prevent a recurrence of the same type of safety event. An ASAP is based on a safety partnership that will include the FAA and the certificate holder, and may include a third party, such as the employee's labor organization or safety organization serving as an ASAP facilitator (e.g., The Air Charter Safety Foundation (ACSF) or The Medallion Foundation). To encourage an employee to voluntarily report safety issues, enforcement-related incentives have been designed into the program.
- 2 **CANCELLATION.** This AC cancels AC 120-66B, Aviation Safety Action Program (ASAP), dated November 15, 2002.
- 3 **COMPLIANCE PHILOSOPHY.** In order to promote the highest level of safety and compliance with regulatory standards, the FAA is implementing Safety Management System (SMS) constructs based on comprehensive safety data sharing between the FAA and the aviation community. To foster this open and transparent exchange of data, the FAA believes that FAA Order 8000.373, Federal Aviation Administration Compliance Philosophy, supported by an established safety culture, is instrumental in ensuring both compliance with regulations and the identification of hazards and management of risk. When deviations from regulatory standards do occur, the FAA's goal is to use the most effective means to return an individual or entity that holds an FAA certificate, approval, authorization, permit or license to full compliance and to prevent recurrence.
 - 3.1 **Compliance Action Decisionmaking.** Reports accepted into ASAP will continue to be processed in accordance with FAA Order 8900.1, Flight Standards Information Management System (FSIMS), Volume 11, Flight Standards Programs; and this AC. The Compliance Action Decision Process (CADP) should be considered the primary means of addressing all alleged, suspected, or identified instances of noncompliance for reports

that are excluded from ASAP. This includes apparent violation of regulations and/or statutes as well as deviations from other established standards or procedures.

- 3.2 Use of Obtained Information.** Information obtained from ASAP will permit participants to identify actual or potential risks throughout their operations. Once identified, the parties to an ASAP can implement corrective actions in order to reduce the potential for recurrence of accidents, incidents, and other safety-related events. De-identified ASAP information should be used for mission pertinent purposes, such as developing internal evaluation strategies, risk mitigation plans, and policy development. In order to gain the greatest possible positive benefit from the ASAP, it may be necessary for certificate holders to develop programs with compatible data collection, analysis, storage, and retrieval systems. The ASAP participants can use the information and data that has been collected and analyzed as a measure of aviation system safety.

Note: ERC members should communicate with FAA management, the certificate holder’s management, and labor group management (if applicable) when potentially controversial issues and high-profile events have been submitted for consideration under ASAP. The ERC may provide briefings and information on the nature of the safety event and associated results of the ERC investigation to ensure that stakeholders have a better understanding of the nature of the event and its disposition. Care should be taken during the above processes to protect confidential details of the report.

- 3.3 Information Submission.** An ASAP report provides a vehicle whereby employees of participating companies with an established ASAP Memorandum of Understanding (MOU) can identify and report safety issues to management and to the FAA for resolution. ASAP is designed to encourage participation from various employee groups, such as flightcrew members, mechanics, flight attendants (F/A), dispatchers, and ramp workers. ASAP MOUs contain incentives which allow employees to submit reports without fear that the FAA will use reports accepted under the program to take legal enforcement action, or that companies will use information from such reports to take disciplinary action.

- 3.4 Elements of an ASAP.** The elements of an ASAP are set forth in a MOU between the FAA, participating company management, and an appropriate third party, such as an employee’s labor organization or an ASAP facilitator.

- 4 DEFINITIONS.** The following key terms and phrases are defined for the purposes of an ASAP to ensure a standard interpretation of the guidance.

- 4.1 Acceptable Risk.** Where the assessed risk falls into the green area of the risk matrix (see Figure 1, Example—Risk Matrix), it may be accepted without further action. The objective in risk management should always be to reduce risk to as low as practicable regardless of whether or not the assessment shows that it can be accepted as is. This is a fundamental principle of continuous improvement.

- 4.2 Acceptable Risk with Mitigation.** Where the risk assessment falls into the yellow area of the risk matrix (see Figure 1, Example—Risk Matrix), the risk may be accepted under defined conditions of mitigation.
- 4.3 Air Carrier.** A person who undertakes directly by lease, or other arrangement, to engage in air transportation.
- 4.4 Aviation Safety Action Program (ASAP) Facilitator.** A third party who provides personnel, expertise and/or time in order to design, implement, manage, or maintain a certificate holder’s ASAP.
- 4.5 ASAP Manager.** The company representative serving as the focal point for program administration, whose duties include, but are not limited to:
1. Recording and acknowledging receipt of reports;
 2. Maintaining the ASAP electronic database;
 3. Providing information about, and responding to, inquiries concerning the status of ASAP reports; and
 4. Coordinating and tracking the company’s implementation of corrective action recommendations of the event review committee (ERC).
- 4.6 Certificate Holder.** Refers to a person authorized under Title 14 of the Code of Federal Regulations (14 CFR) part 119 to operate under 14 CFR part 121 or 135, a person who holds a certificate issued under 14 CFR part 145, or another certificate holder as specified in the applicable ASAP MOU.
- 4.7 Certificate-Holding District Office (CHDO).** The Flight Standards District Office (FSDO) or certificate management office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.
- 4.8 Consensus of the Event Review Committee (ERC).** Under an ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC to each decision required by the MOU.
- 4.9 Corrective Action.** For the purposes of ASAP, corrective action refers to any safety-related action determined necessary by the ERC based upon a review, investigation, and analysis of the reports submitted under an ASAP. Corrective action can be recommended by the ERC for any safety issue identified in an accepted ASAP report, regardless of whether or not it involves an individual’s qualification issue. Corrective action may involve joint or individual action by the parties to the MOU.
- 4.10 Enforcement-Related Incentive.** In order to encourage participation by certificate holder employees, an assurance that no enforcement action will be used to address certain apparent violations of the regulations. This incentive only applies to ERC-accepted reports.

- 4.11 Event Review Committee (ERC).** A group comprised of a representative from each party to an ASAP MOU. The group reviews and analyzes reports submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee labor association (if applicable), and a specifically qualified FAA inspector from the CHDO. Where an employee group is not represented by a labor association, the ERC may (but is not required to) include a voting representative chosen by the company from the employee group (in which case there is no labor group signatory to the ASAP MOU).
- 4.12 Informal Action.** A supportive discussion with the employee on the need to engage in safe behavioral choices. This is equivalent to just culture’s “coaching.” Informal action is a very effective tool for any ERC for the coaching of a reporter who witnesses risky behavior.
- 4.13 Intentional Falsification.** A false statement in reference to a material fact made with knowledge of the falsity. It does not include mistakes, inadvertent omissions, or errors.
- 4.14 Major Domestic Repair Station.** Refers to a part 145-certificated repair station that is certificated to perform airframe and/or engine maintenance for certificate holders operating under part 121.
- 4.15 Memorandum of Understanding (MOU).** Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP. A standard MOU template is available from the FAA at http://www.faa.gov/about/initiatives/asap/memo_generator/.
- 4.16 Non-Sole-Source Report.** The ERC will consider a report to be non-sole-source when evidence of the event is not predicated on the ASAP report. The determination of sole-source and non-sole-source is for reporting metrics only and does not factor into the acceptance of a report.
- 4.17 Party/Parties.** Refers to the certificate holder, the FAA, and any other person or entity (i.e., labor union, other industry, or Government entity) that is a signatory to the MOU.
- 4.18 Person.** Per 14 CFR part 1, § 1.1, a person refers to “an individual, firm, partnership, corporation, company, association, joint-stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of them.”
- 4.19 Reckless Conduct.** Exists when an individual (#1) deviates (#2) from established risk controls (#3) in gross disregard for safety. Risk controls are established by the FAA through regulations (i.e., 14 CFR) and by company policies implemented by the entity. Thus, risk controls can be both regulatory and non-regulatory. Established risk controls put the individual on notice of both the kinds of conduct and scenarios that increase the probability of harm, as well as the procedures necessary to eliminate hazards or to mitigate their effects by reducing the severity and/or likelihood of harm associated with those hazards. Thus, where an individual knows (through established risk controls) how

to eliminate or reduce a risk of harm, but nonetheless acts or fails to act in a manner consistent with the established risk control, then that individual has deviated from the established risk control. “Reckless conduct” occurs when that deviation is in gross disregard for safety. Under a risk assessment matrix, “gross disregard for safety” would be indicated by an increase in likelihood and/or severity of consequences to a high level (unacceptable risk). An intentional deviation from an established risk control with the intent to reduce risk (i.e., emergency or abnormal situations) does not constitute “reckless conduct.”

Note: In both civil and criminal liability contexts, reckless conduct involves a person acting with knowledge that there is a risk that harm would probably result from the conduct and, foreseeing the harm, nevertheless taking the risk. It differs from negligence, where negligence is the failure to recognize a risk that a reasonable person would have recognized.

- 4.20 Risk Analysis and Assessment.** The safety risk management process provides for initial identification of hazards and assessment of risk. Risk analysis and risk assessment clauses use a conventional breakdown of risk by its two components: likelihood of occurrence of an injurious mishap and severity of the mishap related to an identified hazard, should it occur. A common tool for risk decisionmaking and acceptance is a risk matrix. ASAP participants should develop a matrix that best represents their operational environment, most often that which has been adopted within the company’s SMS.
- 4.21 Risk Controls.** Steps taken to eliminate hazards or to mitigate their effects by reducing the severity and/or likelihood of risk associated with those hazards (e.g., regulations, standards, and policies).
- 4.22 Safety Management System (SMS).** The formal, top-down business approach to managing safety risk, which includes a systemic approach to managing safety, including the necessary organizational structures, accountabilities, policies and procedures (Refer to <https://www.faa.gov/about/initiatives/sms/>).
- 4.23 Safety-Related Report.** Refers to a written account of any event that involves aviation safety reported through an ASAP.
- 4.24 Sole-Source Report.** The ERC will consider a report to be sole-source when all evidence of the event available is predicated on the ASAP report. It is possible to have more than one sole-source report for the same event. The determination of sole-source and non-sole-source is for metrics only and does not factor into acceptance of a report.
- 4.25 Unacceptable Risk.** A combination of severity and likelihood that falls into the unacceptable area of the company’s risk matrix.
- 4.26 Voluntary Disclosure Reporting Program (VDRP).** A policy-based program under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to preclude their recurrence.

- 5 BACKGROUND.** The FAA’s safety mission requires it to take action to reduce or eliminate the possibility or recurrence of accidents in air transportation. Over the past several years, the FAA and the air transportation industry have sought innovative means for addressing safety problems and identifying potential safety hazards. To this end, the FAA, in cooperation with industry, established several demonstration ASAPs in an effort to increase the flow of safety information to both the air carrier and the FAA, and issued AC 120-66, Aviation Safety Action Programs (ASAP) on January 8, 1997. These programs included incentives to encourage employees of air carriers participating in the programs to disclose information, which may include possible violations of 14 CFR, without fear of punitive enforcement sanctions or company disciplinary action. Events reported under an ASAP program that involved an apparent regulatory violation by the air carrier were handled under the VDRP, provided that the elements of the policy were satisfied. In view of the positive safety results from those programs, the FAA issued a revised AC 120-66 on March 17, 2000 (AC 120-66A, Aviation Safety Action Programs (ASAP)), and again on November 15, 2002 (AC 120-66B), which established industry-wide guidelines for participation. Within this most current edition of the AC, we introduced the compliance philosophy, calling for the removal of administrative action as a required outcome for accepted reports within ASAP. Based on the lessons learned from over 350 programs since the FAA established the ASAP, this present AC contains revised guidance to clarify FAA policy, facilitate achievement of an ASAP’s safety goals, and encourage wider participation in the program.
- 6 APPLICABILITY.** ASAPs are designed for air carriers that operate under 14 CFR parts 91, 91K, 121, 125, 135, 137, 141, 142, and 145; and major domestic repair stations certificated under part 145. Other certificated entities may also apply, and the FAA will evaluate them for acceptance on a case-by-case basis to determine whether adequate resources are available from each party to maintain program quality control (QC). The FAA, a certificate holder, and, if appropriate, other parties enter ASAPs voluntarily. The certificated entity’s ASAP may cover employees of a contractor only if contractual arrangements between the parties specifically provide that the contractor and its employees will abide by the terms of the applicable ASAP MOU, and by the decisions of the regulated entity’s ERC. In order for the program to cover contract employees, the applicable ASAP MOU must stipulate that such contractual arrangements are in place.
- 7 DEVELOPMENT.** Certificate holders may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided. Ordinarily, programs are developed for specific employee groups, such as flightcrew members, F/As, mechanics, dispatchers, or ramp workers. The FAA will determine whether a program is accepted. The FAA may suggest, but may not require, that a certificate holder develop an ASAP to resolve identified safety issues.
- 7.1 Development Considerations.** The development and implementation of an ASAP is a multifaceted task that includes the following:
1. The certificate holder, employee group, and the FAA should first develop a culture that will promote the ASAP concept. They should not initiate an ASAP until all parties commit to the provisions of the program as described in

this AC. Include all stakeholders in discussions regarding program development. Encourage open discussion regarding potentially divisive issues.

2. Integrate the ASAP into the organization’s safety culture.
3. Institute cultural change, if required, for all parties involved in the ASAP process.
4. Plan for resources needed.
5. Develop a safety risk matrix that best represents their operational environment.

Note: Participants should employ the guidance on the SMS in the most current edition of AC 120-92, Safety Management Systems for Aviation Service Providers. In order to be used in the ASAP, the definitions of each level of severity and likelihood should be specified in terms that are realistic for that environment, and the resulting safety risk matrix must be acceptable to all parties to the ASAP MOU. It should be emphasized that the following risk matrix is only a sample and is not mandated in any way.

Figure 1. Example—Risk Matrix

Severity Likelihood			Higher Lower		
↑					
More Less					
↓					

The risk matrix is a 5x5 grid. The top row is labeled 'Severity' and 'Likelihood'. The first column is labeled 'More' and 'Less'. The grid is divided into three color-coded regions: 'Acceptable' (green, bottom-left), 'Acceptable with Mitigation' (yellow, middle), and 'Unacceptable' (red, top-right). Arrows indicate the direction of increasing severity and likelihood.

6. Outline the ASAP report review process in detail.
7. Outline the safety data collection, analysis, and retention processes.
8. Consider employee needs in the submission process.
9. Ensure that the ERC assigns responsibilities for event investigation tasks.
10. Develop comprehensive company employee and management education program prior to the implementation of the ASAP.
11. Utilize a standardized approach to ASAP training.
12. Train all stakeholders in the content of the MOU.

13. Identify the appropriate individuals to serve on the ERC.

Note: Continuity of ERC members during the early stages of program implementation will promote the desired partnership relationship. ASAP participants should choose highly experienced personnel as ERC representatives. In order for this concept to work effectively, the ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should not preempt their respective ERC representative’s decisionmaking discretion for an event reported under the ASAP.

14. Select a method of disseminating ASAP information.

Note: ERC members should communicate with FAA management, the certificate holder’s management, and labor group management (if applicable) when potentially controversial issues and high-profile events have been submitted for consideration under ASAP. The ERC may provide briefings and information on the nature of the safety event and associated results of the ERC investigation to ensure that stakeholders have a better understanding of the nature of the event and its disposition. Care should be taken during the above processes to protect confidential details of the report.

15. Develop a processes and procedures manual.

7.2 Demonstration Programs. Certificate holders develop a demonstration program for each employee group it seeks to cover under an ASAP, ordinarily based on a separate MOU for each such group. The objective of a demonstration program is to enable the development of sound program procedures, measure program effectiveness, and determine if the program is achieving its safety objectives.

7.2.1 Duration. The demonstration program should have a duration of 18 months. However, the FAA may authorize extension of a demonstration program if the FAA determines that a longer period of time is needed to achieve the desired goals and benefits.

7.2.2 Conclusion. At the conclusion of the demonstration program, all parties will review the results. The FAA may extend demonstration programs that require modification as deemed necessary to effectively measure any change(s) made to the original program, or to address a deficiency identified by any of the parties to the MOU.

7.2.3 Final Report. The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If transition to a continuing ASAP is anticipated, the ERC will prepare and submit a report detailing major program corrective actions, most frequently reported event categories, and recommended program improvements, along with the certificate holder’s proposed initial continuing ASAP MOU, to the FAA. The ERC will provide these documents by email to the CHDO manager and to the Air Carrier Training Systems and Voluntary Safety Programs Branch (AFS-280) manager.

7.2.4 FAA Program Review. Ordinarily, demonstration programs will be subject to an FAA program review prior to transition from a demonstration to an initial continuing ASAP.

7.3 **Continuing Programs**. After a demonstration program is reviewed by the parties to the MOU, and determined to be successful by the FAA, it may be accepted as a continuing program, subject to review every two years by the FAA. The Air Transportation Division (AFS-200) must review and authorize any changes to an existing continuing MOU.

7.4 **Withdrawal**. Regardless of the duration of a program, any party to an ASAP MOU may withdraw from the program at any time for any reason.

8 **RESOURCES**. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party be willing to commit the necessary personnel, time, and monetary resources to support the program. Parties involved should not initiate programs where adequate resources, including FAA resources, are not available to support program participation.

9 PROCESSING OF REPORTS.

9.1 **ERC Process**. The ERC will determine by consensus whether reports qualify for inclusion in an ASAP.

9.1.1 Members. The ERC is composed of one designated representative and an alternate each from the FAA, the certificate holder, and any third party (i.e., the employee’s union or representative organization).

9.1.2 Responsibilities. The ERC will:

1. Review and analyze safety reports submitted under the ASAP.
2. Determine whether such reports qualify for acceptance.
3. Emphasize the need to accept reports when the criteria are met.

Note: The ERC should not accept a report until each member believes that sufficient information is available to make an informed acceptance or exclusion decision. The ERC may conduct interviews, when appropriate.

4. Identify actual or potential safety issues from the information contained in the reports.
5. Investigate reported events; the ERC may conduct interviews, when appropriate.
6. Propose solutions for safety issues identified in reports.
7. Identify and communicate effective corrective actions and recommendations.
8. Not close a report until each member is satisfied that the ERC investigation of the event is complete.

9. Conduct an annual review of the ASAP database to determine whether corrective actions have been effective in preventing or reducing the recurrence of targeted safety-related events.

9.1.3 Quorum. For official meeting purposes, a quorum exists when all designated ERC representatives or their alternates are present (either in person or in remotely situated communication). Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry personnel. The ERC representatives are encouraged to consult with such personnel as needed during the ERC process.

9.2 Consensus of the ERC. The success of an ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Consensus of the ERC means the voluntary agreement of all representatives of the ERC.

9.2.1 Reaching a Consensus. The ERC must reach a consensus when deciding whether to accept a report into the program and when deciding on corrective action recommendations arising from the event. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member’s range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, the ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should not preempt their respective ERC representative’s decisionmaking discretion for an event reported under the ASAP. If the parties to an ASAP MOU do not permit their respective ERC representative to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined and the program will ultimately fail. However, ERC members should communicate with FAA management, certificate holder’s management and labor group management (if applicable) when potentially controversial issues and high profile events have been submitted for consideration under ASAP. The ERC may provide briefings and information on the nature of the safety event and associated results of the ERC investigation, to ensure that stakeholders have a better understanding of the nature of the event and its disposition. Care should be taken during the above processes to protect confidential details of the report.

9.2.2 Not Reaching a Consensus. Recognizing that the FAA holds statutory authority to enforce the rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in Title 49 of the United States Code (49 U.S.C.), and FAA Order 2150.3, FAA Compliance and Enforcement Program, as amended. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), a qualification or medical certification issue, the FAA ERC representative will decide how to handle the report. The FAA will not use the content of an ASAP report, information gathered by the ERC investigation, or an ERC interview of a reporting employee in any subsequent legal enforcement action against the reporting employee, except as described in paragraph 12.3.2. This policy applies regardless of whether an ASAP report is accepted or excluded by the ERC. The FAA may use the knowledge of the event independent of an ASAP report to conduct such investigation of

an apparent violation(s) as the FAA deems appropriate. However, for an accepted ASAP report, no enforcement action will be taken.

9.3 ASAP Manager. The ASAP manager may serve as the program administrator or as the company management representative to the ERC, or may perform both functions, as specified in the applicable ASAP MOU. The ASAP manager:

1. Maintains a manual of processes and procedures.
2. Receives, records, tracks, analyzes, and responds to ASAP reports.
3. Maintains the electronic ASAP database and facilitates ERC member access, as needed.
4. Prepares ERC meeting agenda.
5. Distributes complete (name redacted only) reports to ERC members for review prior to meeting.
6. Coordinates and tracks ERC recommendations.
7. Tracks accomplishment of corrective action(s).
8. Records repeated instances of noncompliance with 14 CFR. Inform ERC members when the same individual is involved.
9. Provides employee feedback.
10. Keeps company upper management informed regarding program results.

9.4 Reports Involving Medical Certification or Medical Qualification Issues. When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon (RFS) about the issue. The ERC will work with the RFS and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report or through the processing of that report. The FAA ERC member must follow the direction(s) of the RFS with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

9.5 Report De-Identification. Except as described in paragraph 12.3.2, an ASAP provides for confidentiality of reporter identity outside of the ERC, but not reporter anonymity within the ERC itself. The ASAP manager may elect to remove the employee's name (but should not remove any other information, such as date of the event, tail number, etc.) for initial ERC report review prior to an ERC meeting. The purpose of removing the reporter's name for review prior to an ERC meeting is simply to reduce the likelihood that an ERC member's personal knowledge of the reporting individual may bias that ERC member's initial evaluation of the event. The FAA ERC member needs the specifics (other than employee identity) concerning the event (e.g., date, location, etc.) to determine whether the FAA has received independent information outside of the ASAP (e.g., a preliminary pilot deviation (PD) report) concerning the event, and if so, to obtain that information for the ERC. The ERC needs this independent information to determine

whether it must request further information from the individual, the operator, or from the FAA in order to determine report acceptability and, if appropriate, corrective action.

9.6 ERC Interviews of Reporting Employees. In accordance with the provisions of paragraph 9.2, the ERC may elect to interview a reporting employee prior to making an acceptance decision on a report, or at any time prior to report closure, if the ERC determines that the interview is required in order to make an informed decision on the disposition of a report. The FAA considers information obtained from an employee during an ERC interview to be an extension of the employee’s ASAP report itself and therefore subject to all of the same protections that apply to the report itself under FAA ASAP policy. This means that the FAA will not use the content of an interview in any legal enforcement action against a reporting employee in the event the employee’s report is excluded from the program unless the event involves criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

9.7 Independent Investigations. The FAA may use the knowledge of the event independent of an ASAP report to conduct such investigation of an apparent violation(s) as the FAA deems appropriate. However, for an accepted ASAP report, no enforcement action will be taken.

Note: A company retains its discretionary authority to take disciplinary action based on information on an event, independently obtained by the company (i.e., information not based or otherwise predicated upon the content of an employee’s ASAP report).

9.8 Safety Data Collection, Analysis, and Retention Processes. Through the electronic collection and aggregation of de-identified ASAP data in a comprehensive database, the parties to the MOU will identify and analyze trends and target resources to reduce risks. The parties gather and analyze data from the ASAP reports in order to identify significant safety risks and trends. The ERC will develop corrective actions and will work with the certificate holder to implement those corrective actions in order to counter adverse risks and trends. Data are continually gathered to determine the effectiveness of any corrective actions undertaken. If needed, new or additional corrective actions should be identified and implemented. Through data analysis, the parties will continue to monitor long-term success and ensure there is no recurrence. The certificate holder should retain safety-related information for a period of time sufficient for the ERC to determine whether its recommended corrective actions have been effective, but not less than two years.

9.9 ASAP Database. Upon initiation of an ASAP, certificate holders should implement a comprehensive electronic database system for report submission, data acquisition, event categorization, risk analysis, and data trending. While the establishment of such an electronic system is a requirement for participation in an ASAP, the certificate holder is free to develop or acquire whatever system best meets its needs for report tracking and program management. A license-free, browser-based, comprehensive ASAP electronic database may be available from the FAA on request, subject to the availability of FAA resources for that purpose at the time of the request.

- 9.10 ASAP Information Sharing.** The FAA has established a voluntary national information-sharing venue for ASAPs, known as the Aviation Safety Information Analysis and Sharing (ASIAS) system. Participation in ASIAS will enable a given participant to benchmark its individual program results with aggregated results at a national level. The ASIAS program also sponsors periodic information-sharing meetings for voluntarily sharing safety issues and solutions. Information concerning ASIAS is available at <http://www.asias.faa.gov>.
- 9.11 Air Traffic Safety Action Program (ATSAP).** The FAA Air Traffic Organization (ATO) has established a voluntary safety event reporting system modeled after the ASAP process for controllers, other ATO personnel, and some other air traffic personnel. Information on the ATSAP can be found in Notice JO 7210.699, Air Traffic Safety Action Program at <http://www.faa.gov/documentLibrary/media/Notice/N%20JO%207210.699%20.pdf> or at <http://www.atsapsafety.com/home.seam>. An airline seeking to voluntarily share information between its ASAP for pilots and ATO may do so by establishing a separate MOU with ATO for that purpose.
- 9.12 Confidential Information Sharing Program (CISP).** CISP is a reliable source of qualitative data that is used to identify risk and improve safety. The CISP supports the collection, assessment, and review of safety events from the perspective of air traffic controllers and pilots and subsequently sharing of information with all parties respective to the MOU. Merging perspectives is critical to understanding the causal factors of both known and previously unknown events. By providing a more complete representation of the National Airspace System (NAS), the FAA, and participating airlines (and may include any third party such as an employee labor organization) can more accurately identify potential hazards and develop more robust mitigation strategies. Sharing data has led to corrective actions, improved training, and enhanced communication with controllers and pilots about lessons learned. The Flight Standards Service (AFS) strongly encourages CMO/FSDO/International Field Unit (IFU) managers adhere strictly to the MOU template and to participate in the CISP through a MOU in support of interdependency, critical thinking, and consistency, which are key components to the Aviation Safety (AVS) SMS and Safety Assurance System (SAS).
- 9.13 Tracking ASAP Reports.** Suggested items for inclusion in an electronic report tracking/categorization scheme include:
- Report number (certificate holder-defined);
 - Event category (certificate holder-defined);
 - Referred to another line of business (when, what department, followup);
 - Possible 14 CFR violation (yes/no);
 - Risk category (certificate holder-defined);
 - Air Transportation Oversight System (ATOS)/SAS element (if appropriate);
 - Report Type (sole-source/non-sole-source);

- Corrective action recommendation (description);
- Completion date, followup required (yes/no);
- Corrective action effective (yes/no);
- Time to completion, and
- Person responsible for additional information (investigation/interview, etc.).

9.14 ASAP Data and Information Confidentiality and Non-Disclosure Criteria. Under 49 U.S.C. § 40123, Protection of Voluntarily Submitted Information, certain voluntarily provided safety and security information may be protected from public disclosure in order to encourage persons to provide the information to the FAA. Under 14 CFR part 193, ASAP data and information is protected from disclosure under the Freedom of Information Act (FOIA), as specified in FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure Under 14 CFR Part 193.

10 GUIDELINES FOR ACCEPTANCE OF REPORTS UNDER AN ASAP.

10.1 General. Participation in an ASAP is limited to employees of the certificate holder (unless, as described in paragraph 6, the certificate holder has a specific contractual arrangement to include employees of contractors) and to events occurring while acting in that capacity. Each employee participating in the ASAP must individually submit a report in order to receive the enforcement-related incentives and benefits of the ASAP policy. In cases where an event may be reported by more than one person, each individual who seeks coverage under the ASAP must submit a separate report in accordance with the certificate holder's report submission procedure.

Note: Participants should employ the guidance on the SMS in the current edition of AC 120-92 to develop a safety risk matrix that best represents their operational environment. In order to be used in the ASAP, the definitions of each level of severity and likelihood should be specified in terms that are realistic for that environment, and the resulting safety risk matrix must be acceptable to all parties to the ASAP MOU (see Figure 1, Example—Risk Matrix).

10.2 Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under an ASAP:

10.2.1 Timeliness. The employee must submit a report in a timely manner. In order to be considered timely, the submitting employee must submit a report involving a possible regulatory violation in accordance with either of the following two criteria:

10.2.1.1 Within the time period stated in the MOU: If the report has been submitted within the time period following the event that is defined in the applicable MOU (e.g., within 24 hours of the end of the duty day or flight sequence for the day in which the event occurred), the ERC would not reject a report for timeliness, regardless of whether or not the FAA was already aware of the

possible noncompliance with the regulations and brought it to the attention of the employee.

10.2.1.2 Within 24 hours of having become aware of the possible noncompliance.

10.2.1.3 If the employee submits a report later than the time period stated in the MOU after the occurrence of an event, and provided the report has met all other acceptance criteria, the ERC will review all available information to determine whether it is in the best interest of safety to accept the untimely report.

10.2.1.4 Timeliness considerations do not apply to the reports that are determined to be sole-source.

10.2.2 ERC Consensus. The ERC must determine through consensus that the apparent regulatory violation did not involve reckless conduct as defined in paragraph 4.19, above.

10.2.3 Exemptions. Exemptions would include violations that occur while exercising the captain’s emergency authority in order to pursue the safest course of action. It would be helpful to note that declaring an emergency with controlling agencies and exercising emergency authority can be, and often are, two distinct and separate actions.

10.2.4 The Big Five. The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification (The Big Five) by the reporting employee.

10.2.5 Previously Involved with The Big Five. Reports initially excluded due to possible involvement of The Big Five may be readmitted for handling under the ASAP if there is consensus of the ERC that the evidence of a subsequent investigation by an appropriate law enforcement agency has determined that the employee was not involved in such behavior.

10.3 **Repeated Violations**. Reports involving the same or similar possible noncompliance with 14 CFR may be accepted into the program, provided they otherwise satisfy the acceptance criteria under paragraph 10.2. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports in light of the repeated nature of the violations. Failure of an ASAP to mitigate repeats of the same or similar violations may warrant withdrawal from the program by the FAA.

10.4 **Non-Reporting Employees Covered Under an ASAP MOU**. If an ASAP report identifies another covered employee of the certificate holder in a possible violation, and that employee has not submitted a separate report, the ERC will determine on a case-by-case basis whether to offer the non-reporting employee the opportunity to submit an ASAP report. If the non-reporting employee submits a report within 24 hours of notification from the ERC, that report will be afforded the same consideration under the ASAP as that accorded the report from the original reporting employee, provided the report meets all other ASAP acceptance criteria. However, if the non-reporting employee fails to submit a report within 24 hours of notification, the possible violation by that

employee will be referred to an appropriate office within the FAA for additional investigation and re-examination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

- 10.5 Non-Reporting Employees Not Covered Under the MOU.** If an ASAP report identifies another employee of the certificate holder who is not covered under the MOU, and the report indicates that employee may have been involved in a possible violation, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report. If the employee submits an ASAP report within 24 hours of notification, that report will be accepted under the ASAP, provided the report meets all other ASAP acceptance criteria. If the employee fails to submit an ASAP report within 24 hours of notification, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and re-examination and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

11 GUIDELINES FOR EXCLUDING REPORTS FROM AN ASAP.

- 11.1 Exclusion.** The following types of reports are excluded under an ASAP.

- 11.1.1 Reckless Conduct.** Reports involving an apparent violation that are determined by consensus of the ERC to involve reckless conduct by the reporting employee.
- 11.1.2 Provision Violation.** Reports that appear to involve an intentional violation of a provision of 14 CFR or 49 U.S.C. Paragraphs 10.2.3 (describing exemptions) and 4.19 (defining reckless conduct) should be carefully considered when making this determination due to the possibility that an intentional violation may have been the safest course of action.
- 11.1.3 The Big Five.** Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification (The Big Five) by the reporting employee.
- 11.1.4 Untimeliness.** Untimely reports excluded under paragraph 10.2.1 or reports where the ERC does not reach a consensus on acceptance under paragraph 10, except under the provisions of paragraph 9.2.2 wherein the FAA representative to the ERC assumes control of the decision to accept or exclude.
- 11.1.5 Not an Employee During Time of Event.** Reports of events that occurred while *not* acting as an employee of the certificate holder that directly involves that employee.
- 11.1.6 Repeated Noncompliance.** The ERC may determine through consensus to exclude a report that reflects an additional instance of a previously repeated act of the same or similar noncompliance, by the same individual, due to a common root cause, and that was previously accepted and addressed with corrective action under an ASAP.

11.2 Failure to Complete Corrective Action. The ERC will exclude reports initially included in an ASAP program if the employee chooses not to participate, is unable to take corrective action, or fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. In those cases, failure of any individual to complete corrective action for an apparent violation, a qualification issue, or medical certification or qualification issue in a manner acceptable to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

12 ENFORCEMENT POLICY.

12.1 FAA Investigation of Events Involving Possible Noncompliance with 14 CFR. By Public Law (PL) and FAA orders, the FAA is responsible for the proper investigation and disposition of all suspected cases of noncompliance with 14 CFR.

12.1.1 FAA CHDO ERC. The FAA CHDO ERC representative is empowered to complete ASAP investigations and is responsible for coordinating all corrective actions in accordance with the amendments of the following FAA orders effective at the time of the event, as applicable:

- FAA Order 2150.3, FAA Compliance and Enforcement Program;
- FAA Order 8020.11, Aircraft Accident and Incident Notification, Investigation, and Reporting; and
- FAA Order 8900.1, Flight Standards Information Management System (FSIMS).

Note: The ERC will make the determination of whether or not a reported event meets the criteria for inclusion into an ASAP in accordance with the applicable orders and through the ERC process. If an event meets the criteria for participation and is accepted into the ASAP by the ERC, the FAA will transfer all jurisdiction and responsibility for compliance and enforcement investigations related to the event to the CHDO ERC representative, even if an enforcement investigation has been previously opened outside of ASAP. The CHDO must complete incident or preliminary PD reports in accordance with current FAA guidance materials regarding such reports, regardless of whether the employee submitted an ASAP report that reported the event. Incident reports or preliminary PD reports involving a certificate holder's employees will be completed by the FAA office having jurisdiction over the certificate holder (CHDO).

12.2 Reports Covered Under ASAP.

12.2.1 Reports Accepted into ASAP. After the ERC completes its investigation and accepts the ASAP report, no FAA enforcement action or correspondence outside of the ERC is required. Such reports are closed with an ERC response to the submitter after the ERC determines to its satisfaction that the submitter has properly completed the corrective action (if any).

- 12.2.2** Reports that Demonstrate Lack of Qualification. Those reports included in an ASAP that demonstrate a lack of qualification or raise a question of a lack of qualification will be addressed with appropriate corrective action recommended by the ERC.

12.3 Reports Excluded From an ASAP.

- 12.3.1** Excluded Report Notification. Reported events that are excluded from an ASAP will be referred to the FAA for possible enforcement action and/or re-examination under 49 U.S.C. subtitle VII, and as prescribed in FAA Order 2150.3, as amended. Event information such as aircraft tail number, date, location, flight number, and regulatory citation will be referred to the FAA for an investigation.

- 12.3.2** Reports Involving The Big Five. Reports of events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for enforcement purposes or may refer reports to law enforcement agencies if appropriate. Upon completion of a subsequent investigation, if it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under the ASAP. Such reports will be accepted under the ASAP provided they otherwise meet the acceptance criteria contained in paragraph 10.

- 12.3.3** Evidence Exclusion in Company Discipline/FAA Enforcement Action. Neither the written ASAP report nor the content of the written ASAP report, including the content of an ERC investigation or interview concerning a reported event, will be used to initiate or support company discipline or as evidence for any purpose in an FAA enforcement action, except as provided for in paragraph 12.3.2. This policy applies regardless of whether an ASAP report is accepted or excluded by the ERC.

- 12.3.4** Independent FAA Investigations. The FAA may use the knowledge of the event independent of an ASAP report to conduct such investigation of an apparent violation(s) as the FAA deems appropriate. However for an accepted ASAP report, no enforcement action will be taken. A company retains its discretionary authority to take disciplinary action based on information on an event independently obtained by the company (i.e., information not based or otherwise predicated upon the content of an employee's ASAP report).

- 13 REOPENING REPORTS BASED ON NEW EVIDENCE.** All safety-related reports should be fully evaluated and, to the extent appropriate, investigated by the FAA. A closed ASAP case may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

- 13.1 Closing a Report.** The ERC should not close a report until all member investigations concerning the event are completed.

- 13.2 Best Practices.** The ERC may make additional safety recommendations based on the new information, if appropriate. For ASAP best practices from the ASAP ERC guide,

refer to

https://www.faa.gov/about/initiatives/asap/reports_presentations/media/Best_Practices_for_ERCs.pdf.

- 13.3 Reopening a Closed ASAP.** A closed ASAP case may be reopened if new evidence requires the ERC to reconsider its acceptance or rejection decision in the particular case.

- 14 VIOLATIONS OF CERTIFICATE HOLDERS.** Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the VDRP, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. Refer to AC 00-58, Voluntary Disclosure Reporting Program, FAA Order 2150.3, and Order 8900.1.

- 14.1 Voluntary Disclosures.** If the FAA has learned of an apparent violation by a certificate holder from an ASAP report, a voluntary disclosure can still be accepted by the FAA, even though the FAA has already learned of the violation from the ASAP. In such cases, the certificate holder must file the voluntary disclosure in a timely manner, ordinarily within 24 hours after receiving notification of the apparent violation. The FAA may, at its sole discretion, accept the corrective action recommended by an ASAP ERC for an accepted ASAP report as the comprehensive fix for the voluntary disclosure under the following conditions (even when an apparent employee qualification or competency issue is involved):

- The FAA determines that the violation is due entirely to the actions of the employee(s) and not to a systematic or procedural deficiency of the company; and
- Employees involved in events covered under this program will be required to complete the corrective action in a manner satisfactory to all members of the ERC. If corrective action is not completed, his/her report will be excluded from ASAP. In these cases, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

- 14.2 Independent Investigation.** Under the provisions of paragraph 13, the FAA may use the knowledge of the event independent of an ASAP report to conduct such investigation of the operator's apparent violation(s) as the FAA deems appropriate. However, for an accepted ASAP report, no enforcement action will be taken.

- 15 EXAMPLES.** The following are examples of the disposition of events involving possible noncompliance with 14 CFR reported under an ASAP:

15.1 Accepted Reports.

- 15.1.1 Pilot.** A pilot reports an altitude deviation where the aircraft was assigned by air traffic control (ATC) to climb to an altitude of 10,000 feet mean sea level (MSL), but actually levels off at 11,000 feet MSL. The report is submitted within 24 hours of the end of the flight sequence for the day in accordance with the airline's ASAP MOU. Following review of the report, the FAA ERC member determines that ATC has filed a PD report

for this event, and obtains a copy of the ATC tapes, radar data, and a statement from the air traffic controller concerning this event. A review by the ERC determines that the PD did not involve reckless conduct. Following verification by the ERC that the employee has satisfactorily completed the recommended corrective action to the satisfaction of all members of the ERC, the ERC closes the report.

15.1.2 Mechanic. An FAA inspector discovered that the checksheet for a Required Inspection Item (RII) accomplished seven days prior had not been signed. The inspector informed the company which then immediately informed the responsible mechanic that the required signature on the checksheet was missing. The mechanic filed an ASAP report within 24 hours of having been informed by the company of the omission. The ERC determined that the mechanic did not know or could not have known about the possible noncompliance with 14 CFR within 24 hours of its occurrence. An investigation by the ERC determined that the inspection was in fact properly accomplished by the reporting employee, although the checksheet had not been signed. The ERC determined through consensus that the omission by the mechanic did not involve reckless conduct, and that the report met all ASAP acceptance criteria. The ERC recommended that the mechanic be counselled on his responsibility to complete all aspects of the required inspection, including signing off all associated documentation.

15.1.3 Timely Report (Mechanic). An airline mechanic reported that he had inadvertently employed an improper lubricant on a rudder component during a heavy maintenance check. The report was submitted three days following the event. An investigation by the ERC determined that in fact the wrong lubricant had been used. Upon interviewing the mechanic, the ERC determined that the employee only became aware of the possible mistake while working on a similar aircraft three days after the event, and that he had submitted the report in a timely manner thereafter. While working on the subsequent aircraft he learned that the maintenance manual had been updated to remove a previously authorized substitute lubricant, and that he had used that lubricant because he was not employing the most recently updated revision of the manual at the time of the event. The ERC determined through consensus that the mistake did not involve reckless conduct, and that the employee submitted the report within 24 hours of having become aware of the event. The ERC recommended that changes be made to the maintenance department's procedures for timely distribution of the most recent manual revisions in order to preclude repetition of this event by others, and the report was closed with no action other than an ERC response to the reporting employee. The ERC followed up with the maintenance department to verify that the recommended procedural change for timely distribution of documentation revisions had been accomplished.

15.1.4 Untimely Report (Pilot). A captain reported an altitude deviation when the aircraft was assigned by ATC to climb to an altitude of 10,000 feet MSL, but actually leveled off at 11,000 feet MSL. The captain's report was not submitted within the timeframe following the event that was specified in the MOU, and the First Officer (F/O) did not initially submit a report. The FAA member of the ERC determined that a preliminary PD report on this event had not been issued by ATC. Nevertheless, the FAA member of the ERC obtained a copy of the ATC tapes, radar data, and a statement from the air traffic controller concerning this event, and the company management member obtained a

printout of flight operations quality assurance (FOQA) data obtained from the aircraft during that flight. The ERC investigation of this event revealed that the deviation was due to an incorrect entry into the flight management system (FMS). The ERC offered the F/O an opportunity to submit an ASAP report, and she did so within 24 hours of ERC notification. An ERC interview of the flightcrew members determined that the FMS entry error had not been noticed by either pilot. The ERC also determined that all of the evidence on this event obtained by the FAA (e.g., ATC tapes, etc.) or by the company (FOQA) had been predicated upon the submission of the captain's ASAP report. Although the reports were not submitted on a timely basis, the ERC determined that they otherwise met ASAP acceptance criteria. Both reports were accepted under the ASAP, and the ERC closed the event with no action other than a requirement that both pilots complete refresher training on FMS entry procedures and crosschecking compliance with altitude clearances. The ERC monitored the completion of the recommended corrective action.

- 15.1.5** F/A. During the cruise portion of a flight, the passengers occupying exit row seats reseated themselves elsewhere in the cabin in order to permit another passenger with a severe physical disability to occupy the more spacious exit row seating. The F/A reported that she permitted that individual to remain in the exit row for landing because she was unsure whether requiring that person to be reseated conflicted with regulations and policy concerning the appropriate handling of persons with disabilities. The ERC accepted the report and counseled her that her safety responsibilities require that exit row seating only be occupied by persons physically able to accomplish the emergency evacuation exit door procedures. The ERC recommended that the airline revise the content of its cabin attendant training curriculum to clarify responsibilities for the handling of persons with disabilities, and the regulatory basis for denial of exit row seating to those persons who are unable to perform the actions, which would be required in the event of an emergency evacuation. The airline promptly made those changes.

Note: This report was accepted. Although the F/A deviated from established risk controls, the ERC determined that the deviation was a low safety risk (acceptable risk) and thus was not in gross disregard for safety. Thus, the F/A did not act recklessly. In accepting the report, the ERC also considered the F/A's rationale for allowing the passenger to remain in the exit row. Recommended that the company revise training program.

- 15.1.6** Dispatcher. The ERC received multiple dispatcher sole-source reports pertaining to a perceived failure of joint operational control between the captain and dispatcher. An ERC investigation determined that the most frequent issue involved crews flying routes other than those specified on the dispatch release. The ERC found this was most likely to occur when the dispatcher planned a route that might not be the most direct in order to avoid severe weather or other adverse meteorological conditions. When this occurred, the crews often would ask for and receive direct routing from ATC. To address this issue, Flight Operations for the airline developed a training curriculum on joint operational control of flights. This training was administered to all pilots and dispatchers as part of required recurrent training.

15.2 Excluded Events. Examples of events involving possible noncompliance with 14 CFR that would be excluded from the ASAP:

15.2.1 Reckless Conduct (Pilot). An aircraft being ferried in winter from a maintenance repair facility to another station for a revenue flight experienced a compressor stall in one of its engines shortly after lift-off, followed by a compressor stall in a second engine. The flightcrew declared an emergency and returned without further mishap to the departure airport. Postflight examination of the aircraft revealed that ice was still attached to the upper wing surface near the wing root area.

15.2.1.1 The captain and the F/O filed individual ASAP reports on this event. An investigation by the ERC determined that the flightcrew had been dispatched from operations via a company vehicle to the maintenance hangar at the departure airport and had been dropped off at the forward aircraft door, from which position they could observe most, but not all, of the aircraft. The captain instructed the F/O to conduct the exterior preflight inspection, and proceeded to the cockpit to prepare the aircraft for departure. Thereafter, the F/O entered the cockpit and reported that the exterior of the aircraft was ready for flight.

15.2.1.2 The ERC investigation determined that the F/O had not performed a complete walkaround inspection of the aircraft, including inspection of the top surface of the wing, as the F/O had been trained, and as provided by the Flightcrew Operating Manual (FCOM). The ERC concluded that this behavior constituted reckless conduct on the part of the F/O and the event, as disclosed in the F/O’s report, was excluded from ASAP. The ERC determined that the captain did not violate the regulations.

Note: The F/O’s report is excluded for reckless conduct. The F/O deviated from established risk controls by failing to complete the walkaround inspection. Under the applicable company risk matrix, the ERC determined that the deviation created a high safety risk or unacceptable risk (i.e., risk of contaminated wings and compressor stall, which actually materialized), and thus was in gross disregard for safety. Accordingly, the F/O’s conduct was reckless. Moreover, the contaminated wings and risk of compressor stall would be obvious to a reasonable person.

15.2.2 Reckless Conduct (Supervisory Mechanic). A newly hired maintenance technician submitted a sole-source ASAP report stating that she had been directed by her immediate maintenance supervisor to use a lubricant other than what was authorized in the maintenance manual for the jackscrew on a rudder control assembly because her supervisor informed her that her copy of the maintenance manual was out of date and that the latest manual revision would include authorization for use of the alternative lubricant. She stated that she informed her supervisor that she was submitting an ASAP report on the event because she was unsure about this action. The maintenance supervisor then immediately submitted his own ASAP report on the event, in which he claimed that

although not authorized, he believed the alternative lubricant was equivalent in effectiveness to the one authorized in the manual, and that the authorized lubricant was not available in the facility at the time.

15.2.2.1 An ERC investigation confirmed that the new hire technician had used a substitute, non-approved lubricant at the direction of her immediate supervisor based on his assertion that it was authorized in the latest maintenance manual revision. The ERC determined the action by the new hire maintenance technician did not constitute reckless conduct in view of her experience level and the fact that her action was directed by an experienced mechanic in a supervisory capacity. Her report was accepted, and the technician was directed by the ERC to complete additional training on maintenance manual procedures and verification of manual revision currency. In addition, the ERC recommended to the company that compliance with maintenance manual requirements for use of authorized lubricants be made a special emphasis training item for supervisory maintenance personnel.

15.2.2.2 The ERC excluded the maintenance supervisor’s report for reckless conduct, and the event was referred to the appropriate FSDO for further investigation of the supervisor’s actions, including possible enforcement action and/or re-examination under 49 U.S.C. Subtitle VII, Aviation Programs, and as prescribed in FAA Order 2150.3, as amended. The company also took immediate action to re-service the aircraft with the authorized lubricant.

16 **CORRECTIVE ACTION.** The ERC will work with a certificate holder to develop an acceptable corrective action, including corrective action for systemic issues, that should be taken based on information obtained under an ASAP. The corrective action must be completed in a manner acceptable to all members of the ERC to resolve the noted safety deficiencies. The failure of a certificate holder to complete the corrective action will ordinarily result in termination of the program. In addition, failure of any individual employee to complete corrective action for an apparent violation, a qualification issue, or medical certification or qualification issue in a manner acceptable to all members of the ERC will result in the reopening of the case and referral of the matter for appropriate action. The ERC may recommend corrective action for any safety issue identified in an accepted report. Corrective actions can be training, mentoring, counseling, or whatever the ERC determines is the best course of action to take to resolve the issue.

16.1 Corrective Action for Qualification Issues. Matters involving competence or qualification of certificate, license, or permit holders will be addressed with appropriate corrective action, which may include retraining or re-examination. Reluctance or failure in adopting methods to remediate deviations or instances of repeated deviations may result in enforcement.

16.2 Corrective Action for Systemic Issues. For corrective action regarding systemic issues by a certificate holder:

1. The ASAP manager should convey such ERC recommendations to the appropriate company department head for consideration.
2. The certificate holder may implement as recommended, modify, or decline to implement the ERC’s recommendations.
3. The ASAP manager must record, track, and follow up on company response and action.
4. Any recommended corrective action that is not implemented will be recorded in the ASAP database along with the reason why it was not implemented.
5. Repeated occurrences of systemic issues should be brought to the attention of company and FAA management.

17 EMPLOYEE FEEDBACK. The value of an ASAP can only be known and understood if the successes and findings of the program are shared openly and honestly with all stakeholders. Making the impact of the ASAP on safety visible and sustaining this visibility over time is important for building and maintaining trust and buy-in in the program. The ASAP manager must:

1. Make information about the ASAP meaningful to the intended audience.
2. Select a method of communication that is appropriate for the audience.

18 MOU. The provisions of an ASAP that are acceptable to the FAA should be set forth in an MOU signed by each party. A program will be implemented in accordance with the provisions of its MOU. A sample demonstration program MOU, initial continuing program ASAP MOU, and an automated ASAP MOU generator are accessible on the FAA AFS ASAP Web site at <http://www.faa.gov/about/initiatives/asap>. In order to maintain standardization in the program, the FAA will not accept MOUs that deviate from the FAA ASAP MOU template. New and renewal applicants should refer to the ASAP Web site to ensure that they are utilizing the most current version of the template MOU.

19 ACCEPTANCE/RENEWAL PROCEDURES.

19.1 Review. The certificate holder should initially develop and present the program to the CHDO for review. FAA does not accept MOUs that deviate from the FAA ASAP MOU template.

19.2 Procedures. When the CHDO is satisfied that the program is acceptable under the guidance of the ASAP, the CHDO manager forwards an electronic copy of the proposed MOU, as well as the CHDO’s recommendation for acceptance, by email to the respective Flight Standards Division Regional Office (RO) and to the FAA headquarters (HQ) program office for ASAP (AFS-280). All programs, except for renewals of continuing programs where no MOU modifications are required, will receive authorization for acceptance from the AFS-280 manager. AFS-280 will indicate acceptance authorization for the MOU by emailing an FAA memorandum to the CHDO manager and copying to the regional division technical branch manager.

Note: For the purposes of review by the AFS division RO, FAA HQ, and AFS-280, a signed copy of the MOU is not required. The text of the MOU, as well as the CHDO recommendation for acceptance, should be emailed to those offices.

- 19.3 Acceptance Process Timeframe.** ASAP MOUs will ordinarily be reviewed and authorized for acceptance within 10 days of receipt by AFS-280. Following receipt of acceptance authorization from AFS-280, the CHDO manager will sign the MOU on behalf of the FAA. A scanned copy of the MOU signed by all parties must then be emailed to AFS-280 for electronic filing. Future provisions for maintenance of MOUs within the Web-based Operations Safety System (WebOPSS) are under development at this time.
- 19.4 Demonstration Program Extensions.** The FAA may authorize extension of a demonstration program in accordance with FAA Order 8900.1 when the FAA determines that additional time is needed to achieve the desired goals and benefits. If the company requests an extension of the initial demonstration program beyond 18 months, the local CHDO manager will inform the AFS-280 manager of the request by email and include an approval or denial recommendation. If AFS-280 approves the extension, it will issue an authorization for an extension for a prescribed time period, by email, to the CHDO manager. Upon receipt of that authorization, the CHDO manager will grant the request by issuing a letter to the company. The CHDO manager must forward a scanned copy of the signed extension letter to the ASAP program office (AFS-280) for program tracking purposes. In addition, the CHDO should advise AFS-280 of the actual start date for the program.
- 19.5 Initial Authorization of a Continuing Program.** The FAA initiates a continuing program after the parties to the MOU review the ASAP program to ensure that it is meeting its objectives. Ordinarily, a representative from AFS-280 will conduct an onsite program review with the ERC. The ASAP manager will notify the CHDO manager and AFS-280 of the participants' request to transition to a continuing program at least 60 days in advance of the expiration of a demonstration program MOU. The ASAP manager will also provide both AFS-280 and the CHDO with a copy of a proposed continuing ASAP MOU. AFS-280 will provide the ASAP manager with a program review questionnaire to be completed by the ERC (as a group) and returned to AFS-280 prior to the onsite program review. AFS-280 and the FAA ERC representative will coordinate the establishment of a program review date. If all parties decide that a continuing program is appropriate and if AFS-280 determines that the proposed initial continuing ASAP MOU is consistent with FAA policy, AFS-280 will provide the CHDO manager with an acceptance authorization memorandum. The CHDO manager should provide AFS-280 by email with a scanned copy of the continuing MOU signed by all parties.
- 19.6 Review of Continuing Program.** Review of a continuing program is accomplished after the parties to the MOU review the ASAP program every two years to ensure that it is continuing to meet its objectives. If the operator's MOU has changes that do not entail MOU-template-specific language (such as a change in the applicable labor association), the MOU language must be updated accordingly, and must be re-signed by the CHDO

manager and the other parties to the MOU. A scanned copy of the CHDO renewal letter or the signed and updated MOU, as applicable, should be emailed by the CHDO to AFS-280 for filing and database-tracking purposes. The operator’s ASAP manager will notify CHDO manager and AFS-280 at least 60 days in advance of the biennial review.

19.7 Revision Control. Certificate holders should employ standard revision control methodology with respect to revisions to an ASAP MOU. The original and subsequent revisions should include:

1. For each revision to an original MOU:
 - A change control page, identifying the revision number;
 - A brief synopsis of each change to the original document; and
 - Instructions regarding which pages are to be removed and replaced.
2. A List of Effective Pages (LEP).
3. A table of contents.
4. On each page of the MOU, a calendar date for when that page was prepared or revised.
5. For all revisions to an original MOU, a revision number on each page that is revised.
6. Sequential page numbers on all pages of the MOU (except the cover page, if applicable, which will be understood to constitute page “i”).

20 PROGRAM REVIEWS AND REPORTS.

20.1 Annual Review. The ERC conducts an annual review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends.

20.2 End of Demonstration Program Report. The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report to AFS-280 detailing program corrective actions, the most reported event categories, and recommended program improvements with the certificate holder’s application to the FAA 60 days in advance of the termination date of the demonstration program. This allows the effective measurement of any change(s) made to the original program that addresses a deficiency identified by any of the parties to the MOU.

20.3 FAA Program Review. The purpose of the program review is to collect information, data, and feedback from participants that will enable an assessment of whether the safety objectives of the program are being achieved, and whether those results are being effectively documented. To the maximum extent possible, the FAA program review is to determine whether the safety objectives of the program are being achieved, and whether

those results are being effectively documented. To the maximum extent possible, the FAA program review is scheduled to coincide with the end of demonstration or first continuing program MOU expiration. The review is completed onsite during a regularly scheduled ERC meeting. The review incorporates a survey questionnaire combined with an observation of the ERC meeting followed by feedback concerning the conduct of the meeting, including a discussion of the program review questionnaire responses. In addition, the reviewer provides clarification of ASAP policy, guidance, discussions of national program trends, and concludes with a short question and answer session. Periodic reviews of continuing programs will also be conducted.

- 21 UPDATED ASAP INFORMATION.** As the FAA and industry gain experience with ASAPs, FAA ASAP policy will continue to evolve to reflect lessons learned. AFS has established a Web site (<http://www.faa.gov/about/initiatives/asap>) to serve as a reference source for, and provide the most current information on, FAA ASAP policy updates. Until revised, guidance to industry provided in the most current version of AC 120-66 will continue to apply, except as noted on the ASAP Web site. The ASAP Web site will contain precise language describing policy updates to the ASAP program for inclusion in an entity's revised MOU as well as a downloadable copy of the most current FAA ASAP MOU template.
- 22 RECORDKEEPING.** The parties should maintain those records necessary for a program's administration and evaluation. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law under applicable exemptions of the FOIA and the Pilot Records Improvement Act of 1996 (PRIA). All records and documents relating to an ASAP must be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable law.

John S. Duncan
Director, Flight Standards Service

Advisory Circular Feedback Form

If you find an error in this AC, have recommendations for improving it, or have suggestions for new items/subjects to be added, you may let us know by contacting the Air Transportation Division (AFS-200) or the Flight Standards Directives Management Officer at 9-AWA-AFS-140-Directives@faa.gov

Subject: AC 120-66C, Aviation Safety Action Program (ASAP)

Date: _____

Please check all appropriate line items:

An error (procedural or typographical) has been noted in paragraph _____ on page _____.

Recommend paragraph _____ on page _____ be changed as follows:

In a future change to this AC, please cover the following subject:
(Briefly describe what you want added.)

Other comments:

I would like to discuss the above. Please contact me.

Submitted by: _____

Date: _____